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CONFIDENTIAL
MEMORANDUM

October 2,
February 1950

TO : Chief, CIA Library, OCD
FROM : Legal Staff
SUBJECT: Disposal of Records

OGC Has Reviewed

1. This memorandum is in reply to your request for the Legal Staff's interpretation of all statutes affecting the disposal of records of the Central Intelligence Agency.

2. The word "records," insofar as this discussion is concerned, includes all books, papers, maps, photograph, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein. Library and museum material made or acquired and preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of the word (as defined in the Records Disposal Act).

3. Effect of Public Law 115 (78th Congress, First Session). This legislation, commonly known as the Records Disposal Act, prescribes certain procedures for the disposal of all records of the United States Government, and is binding on all agencies. Under the provisions of this Act, the National Archives Council was directed to promulgate disposal procedures, which were set out in the "Regulations of the National Archives Council," adopted 29 July 1949. However, the Records Disposal Act was amended partially by Public Law 754, which was approved on 5 September 1950. As of that date, the National Archives Council no longer exists, and will be replaced by the Federal Records Council, the members of which are now being chosen. Under Public Law 754, the function of issuing disposal regulations will be exercised by the Administrator of General Services, who already has ordered that the Regulations of the National Archives Council will remain in force temporarily. He issued this order on 27 September 1950, effective 5 September 1950. Therefore, the CIA is bound by the Records Disposal Act and the Regulations of the National Archives Council, insofar as they do not conflict with Public Laws 253 and 110. (inasmuch as your office has copies of the aforementioned Act and Regulations, a discussion of their contents appears unnecessary here).

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7. Effect of Public Law 152 (81st Congress, First Session). This legislation, commonly known as the Federal Property and Administrative Services Act of 1949, transferred the National Archives Establishment to the General Services Administration and authorized the Administrator to make surveys of Government records and of records management and disposal practices and to obtain reports thereon from Federal agencies. However, this Act contains a provision which says nothing in it shall impair or affect any authority of the Central Intelligence Agency. Section 602 (d) (17). It was the desire of Congress, and it has been the policy of the Director, the CIA follow this legislation whenever possible.

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8. Effect of Public Law 754 (81st Congress, Second Session). This legislation, approved on 5 September 1950, amends, inter alia, Public Law 152. Section 501 of this new law is commonly known as the Federal Records Act of 1950, and has a direct bearing on our problem. As mentioned above, this law places the function of issuing disposal regulations under the Administrator of General Services. It also gives the Administrator authority to inspect the records of any Federal agency and to obtain disposal reports from such agencies. This law also exempts CIA from its provisions. However, in the view of this office, it was the desire of Congress that CIA follow this legislation whenever possible.

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9. Effect of Executive Order 9784 (Dated 25 September 1946). This Order provides that the head of each agency shall establish and maintain an active continuing program for the effective management and disposition of its records. It provides further that each agency shall retain in its custody only those records needed in the conduct of current business, and shall cause all other records to be offered for transfer to the National

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Archives or proposed for other disposition in accordance with law. This Order applies to the Central Intelligence Agency and has been implemented by Administrative Instruction 50-16. However, this Order provides that no transfer of records shall be made thereunder when the head of the agency having custody of the records shall certify that such records contain confidential information, a disclosure of which would endanger the national interest or the lives of individuals. Since the Order itself provides a method whereby CIA may retain sensitive records, no reliance upon Public Law 253 would seem necessary. However, if the Director decides that compliance with this Order would result in the unauthorized disclosure of intelligence sources and methods, such compliance would be unnecessary.

SUMMARY

1. The Central Intelligence Agency must comply with the Records Disposal Act, insofar as it does not conflict with the provisions of

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2. The Central Intelligence Agency should comply with Public Laws 152 and 754 whenever possible, even though each specifically exempts CIA from its provisions. However, if such compliance would result in the unauthorized disclosure of intelligence sources and methods, Public Law 253 must be followed.

3. The Central Intelligence Agency should comply with Executive Order 9784 whenever possible, although it does not require disclosure of confidential information which would endanger the national interest or lives of individuals.

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